IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 27663 of 1998

Between:

1 P.Bhikshapathi, S/o Gopaiah, S.C.C. Co. Ltd., Godavarikhani, Karimnagar District.
2 Thallapathy Lingaiah, S/o Ramaiah, S.C.C. Co. Ltd., Godavarikhani, Karimnagar District.
3 Nagula Laxminarayana, S/o Shankaraiah, S.C.C. Co. Ltd., ‘

Godavarikhani, Karimnagar District
4 G.Sailu, S/o. Bhoomaiah, S.C.C. Co. Ltd., Godavarikhani, Karimnagar District
5 G.Chandraiah, S/o. Komaraiah, S.C.C. Co. Ltd., Godavarikhani, Karimnagar District
6 Kalasi Rajaiah, S/o. Rajamallu, S.C.C. Co. Ltd., Godavarikhani, Karimnagar District
7 Akula Chandraiah, S/o. Mallaiah, S.C.C. Co. Ltd., Godavarikhani, Karimnagar District

PETITIONERS

AND

1 Singareni Collieries Co. Ltd., Rep. General Manager, Godavarikhani, Karimnagar District
2 Superintendent of Mines, GDK-11A Incline, Singareni Collieries Co Ltd., Godavarikhani, Karimnagar District

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Order or Direction, especially one in the nature of Writ of Mandamus, i) Declaring the action of the Respondents in not absorbing the petitioners on Surface job as illegal and arbitray, ii) Direct the Respondents to absorb the petitioners on surface jobs; iii) pass any such other order or orders as this Honble Court may deem fit and proper in the circumstances of the case and in the interest of

justice.

Counsel for the Petitioners: MR.K.VASUDEVA REDDY

Counsel for the Respondents: MR.K.SRINIVASA MURTHY

The Court made the following:

ORDER:

This writ petition is filed seeking a mandamus declaring the action of the respondents in not absorbing the petitioners on surface job as illegal and arbitrary and consequently to direct the respondents to absorb the petitioners on surface.

It is the case of the petitioners that they have been appointed to different categories in the coal mines of the respondents' Company. The respondents instructed them to work on surface in the year 1981 as there was requirement of employees on surface. Accordingly, they are working on the surface on the rolls of the 2nd respondent continuously. Subsequently, the underground allowance was also stopped for them with an assurance that they would be permanently absorbed as surface employees. Bonafidely, believing the assurance of the respondent authorities, they continued to work on Surface, even foregoing underground allowance @ 20% of their basic pay. Thus, they have been continuously working as surface employees for the last 7 years without any interruption. When the management did not absorb them, they filed representations requesting for their absorption of service on Surface since they have been working for more than seven years. Instead of absorbing them on the surface, they were being disturbed and they were asked to go on underground job.

A detailed counter affidavit has been filed on behalf of respondents 1 and 2. It is asserted that as far as Godavarikhani-11A Incline is concerned, the Mining operation is on Longwall basis and on account of the Longwall Technology of Mining, there are sheds on the surface, wherein the underground machinery are repaired or overhauled. The petitioners, who are all working underground, have

been asked to work in the Longwall Sheds and as a corollary as long as the sheds are in the operation, the underground employees, who were asked to work in the sheds, will continue to do so and when once the Longwall sheds are dismantled, the underground employees, who are working in the Longwall Sheds, will have to go back to the underground place of working. Just because, they have been working on surface, it does not mean that once the work which has been allotted to them is over, they shall not go back to their substantive place of postings. In fact, at the request of the petitioners, they have been given some work in the Longwall Sheds and once the Sheds are dismantled, they are supposed to go back to underground wall. In fact, there is no work for the petitioners at Godavarikhani No.11A Incline and therefore, the petitioners were brought back to the other Mines in the underground mines of Ramagundam-1 Area. In the very nature of the industry, the petitioners cannot claim as a matter of right for being absorbed on surface. They have no right whatsoever to work on surface as per the terms and conditions of appointments and so long as the management engages them underground, they are supposed to work.

This writ petition is imaginary and does not call for any interference. Having regard to the respective contentions made on either side and having gone through the material available on record, the fact that the petitioners were engaged as underground employees is not disputed. The fact that they have been engaged in the Longwall Sheds for undertaking the repairs is also not in dispute. So long as the petitioners are engaged in the sheds, they are entitled to be on the surface job but once the sheds are dismantled and workers are shifted from one place to another. The Management can adjust these workers as per the original terms of the employment. In this case, admittedly, the petitioners were engaged as underground employees and they are not entitled for permanent absorption on surface level. Therefore, the writ petition is imaginary, speculative, devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed.

However, this will not preclude the petitioners from making any representation to the Management for considering their case for absorption of service as and when such vacancies arise and it also will not preclude the Management from considering their cases as per merit.

Justice C.V.RAMULU

21-6-2005

Dvs

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Copies to:

1 The General Manager, Singareni Collieries Co. Ltd.,
Godavarikhani, Karimnagar District
2 The Superintendent of Mines, GDK-11A Incline, Singareni

Collieries Co Ltd., Godavarikhani, Karimnagar District.

3. Two CD copies.

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HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.27663 of 1998

21st June, 2005